

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

|                                       |   |                             |
|---------------------------------------|---|-----------------------------|
| <b>MUSTAFA OZSUSAMLAR, #18188-050</b> | ) |                             |
|                                       | ) |                             |
| <b>Plaintiff,</b>                     | ) |                             |
|                                       | ) |                             |
| <b>vs.</b>                            | ) |                             |
|                                       | ) |                             |
| <b>HARRY LAPIN,</b>                   | ) | <b>CIVIL NO. 11-844-GPM</b> |
| <b>WANDY ROAL,</b>                    | ) |                             |
| <b>DR. DAVID SZOKE,</b>               | ) |                             |
| <b>P. KELLY,</b>                      | ) |                             |
| <b>K.D. WELLS,</b>                    | ) |                             |
| <b>M. PATTERSON,</b>                  | ) |                             |
| <b>C. RUNGE</b>                       | ) |                             |
|                                       | ) |                             |
| <b>Defendants.</b>                    | ) |                             |

**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

This case came before the Court pursuant to 28 U.S.C. § 1915A threshold review. After carefully examining Plaintiff's complaint and supporting exhibits, the Court conducted a video conference to better discern Plaintiff's claims. The Court **FINDS** that Plaintiff has stated a claim under the Eighth Amendment for deliberate indifference to a serious medical need against Defendant Szoke, M.D.

Plaintiff's assertions that Defendants are opening his mail or paying insufficient wages fails to implicate the constitution. All of Plaintiff's other allegations fail to allege sufficient facts to state a claim for relief that is plausible on its face. Accordingly, all other Defendants are dismissed from this case with prejudice.

The Court believes Plaintiff could benefit from the assistance of counsel. Plaintiff is a Turkish citizen, whose English is difficult to understand. Plaintiff filed this lawsuit while incarcerated at FCI-Marion, which is located in the Southern District of Illinois. Now, Plaintiff has been transferred to FCI-Fairton, in New Jersey. The Court will attempt to locate an attorney that has the ability to provide adequate representation to Plaintiff, given this difficult situation.

Finally, Plaintiff's motion to amend the complaint (Doc. 17) is **DENIED**. Plaintiff may seek leave to amend his complaint in light of the Court's threshold review.

## **DISPOSITION**

The Clerk of Court is **DIRECTED** to complete, on Plaintiff's behalf, a summons and form USM-285 for service of process on **Defendant SZOKE**; the Clerk shall issue the completed summons. The United States Marshal **SHALL** serve Defendants **SZOKE** pursuant to Rule 4(e) of the Federal Rules of Civil Procedure.<sup>1</sup> All costs of service shall be advanced by the United States, and the Clerk shall provide all necessary materials and copies to the United States Marshals Service.

In addition, pursuant to Federal Rule of Civil Procedure 4(i), the Clerk shall (1) personally deliver to or send by registered or certified mail addressed to the civil-process clerk at the office of the United States Attorney for the Southern District of Illinois a copy of the summons, the complaint, and this Memorandum and Order; and (2) send by registered or certified mail to the

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<sup>1</sup> Rule 4(e) provides, "an individual – other than a minor, an incompetent person, or a person whose waiver has been filed – may be served in a judicial district of the United States by: (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made; or (2) doing any of the following: (A) delivering a copy of the summons and of the complaint to the individual personally; (B) leaving a copy of each at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or (C) delivering a copy of each to an agent authorized by appointment or law to receive service of process."

Attorney General of the United States at Washington, D.C., a copy of the summons, the complaint, and this Memorandum and Order.

It is **FURTHER ORDERED** that Plaintiff shall serve upon Defendants, or if an appearance has been entered by counsel, upon that attorney, a copy of every pleading or other document submitted for consideration by this Court. Plaintiff shall include with the original paper to be filed a certificate stating the date that a true and correct copy of the document was mailed to each defendant or counsel. Any paper received by a district judge or a magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

Defendant is **ORDERED** to timely file an appropriate responsive pleading to the complaint and shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g).

Pursuant to Local Rule 72.1(a)(2), this action is **REFERRED** to United States Magistrate Judge **Wilkerson** for further pre-trial proceedings.

Further, this entire matter is **REFERRED** to United States Magistrate Judge **Wilkerson** for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral*.

**IT IS FURTHER ORDERED** that if judgment is rendered against Plaintiff, and the judgment includes the payment of costs under Section 1915, Plaintiff will be required to pay the full amount of the costs, notwithstanding that his application to proceed *in forma pauperis* has been granted. *See* 28 U.S.C. § 1915(f)(2)(A).

Plaintiff is **ADVISED** that at the time application was made under 28 U.S.C. § 1915 for leave to commence this civil action without being required to prepay fees and costs or give security for the same, the applicant and his or her attorney were deemed to have entered into a stipulation that the recovery, if any, secured in the action shall be paid to the Clerk of the Court, who shall pay therefrom all unpaid costs taxed against plaintiff and remit the balance to plaintiff. Local Rule 3.1(c)(1)

Finally, Plaintiff is **ADVISED** that he is under an obligation to keep the Clerk of Court and each opposing party informed of any change in his address; the Court will not independently investigate his whereabouts. This shall be done in writing and not later than **7 days** after a transfer or other change in address occurs. Failure to comply with this order will cause a delay in the transmission of court documents and may result in dismissal of this action for want of prosecution. *See* FED. R. CIV. P. 41(b).

**IT IS SO ORDERED.**

DATED: August 21, 2012

/s/ G. Patrick Murphy  
G. PATRICK MURPHY  
United States District Judge